

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

JONATHON MORGAN,

Plaintiff,

CASE NO. CV-F-02-6316 AWI DLB P

ORDER PROVIDING TRAVEL
EXPENSE FOR PLAINTIFF'S PROPOSED
UNINCARCERATED WITNESSES

vs.

DURAN, et al.,

Defendants.

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in a civil rights action pursuant to 42 U.S.C. § 1983. On November 17, 2006, the Court issued its Second Scheduling Order setting this matter for trial on February 17, 2007. In the Order, the Court advised plaintiff of the procedure for obtaining the attendance of unincarcerated witnesses who refuse to testify voluntarily. The Court advised plaintiff that he must first notify the Court in writing of the name and location of each unincarcerated witness and that the Court would then calculate the travel expense for each unincarcerated witness and notify plaintiff of the amount(s).

On November 29, 2006, plaintiff submitted the names of eighteen unincarcerated witnesses. The witnesses appear to be located in three cities, Corcoran, Bakersfield and Los Angeles. On December 4, 2006, plaintiff submitted the name of an additional unincarcerated witness from Rancho Cucamonga, California.

With regard to the witnesses from Corcoran State Prison, the round trip mileage from Corcoran to Fresno is 130 miles. The mileage rate is \$.445 per mile. Accordingly, for each witness from

1 Corcoran California, plaintiff must submit a money order made payable to the witness in the amount of
2 \$97.85 (\$40.00 witness fee plus \$57.85 mileage).

3 With regard to the witnesses from Bakersfield, California, the round trip mileage from
4 Bakersfield to Fresno is 216 miles. Accordingly, for each witness from Bakersfield, plaintiff must
5 submit a money order made payable to the witness in the amount of \$136.12 (\$40.00 witness fee plus
6 \$ 96.12 mileage).

7 The round trip mileage from Los Angeles to Fresno is 438 miles. For each witness from Los
8 Angeles, plaintiff must therefore submit a money order made payable to the witness in the amount of
9 \$234.91 (\$40.00 witness fee plus \$194.91 mileage).

10 The round trip mileage from Rancho Cucamonga to Fresno is 516 miles. For each witness from
11 Rancho Cucamonga, plaintiff must therefore submit a money order made payable to the witness in the
12 amount of \$269.62 (\$40.00 witness fee plus \$229.62 mileage).

13 Plaintiff is reminded that the subpoenas will not be served upon the unincarcerated witness by
14 the United States Marshal unless the money order is tendered to the court. Because no statute authorizes
15 the use of public funds for these expenses in civil cases, the tendering of witness fees and travel
16 expenses is required even if the party was granted leave to proceed in forma pauperis. **If plaintiff**
17 **wishes to have the Marshal serve any unincarcerated witnesses who refuse to testify voluntarily,**
18 **plaintiff must submit the money orders to the court no later than the date of the pretrial**
19 **conference, January 8, 2007.**

20
21 IT IS SO ORDERED.

22 **Dated: December 14, 2006**
23 3b142a

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE